

community-led, market-led or plan-led?

The NPPF needs to reinforce the plan-led system, not undermine it, says Peter Studdert

Does the Government want the English planning system to be community-led, market-led or plan-led? This dilemma lies at the heart of the debate that is raging around the consultation on the draft National Planning Policy Framework (NPPF).

This dilemma of course has its origins in the Conservative Party's *Open Source Planning* Policy Green Paper, published before the last election, which painted the legally dubious picture of local 'communities' doing financial deals directly with developers to enable controversial and potentially damaging developments to proceed unchallenged, with the local planning authority relegated to the role of rubber-stamping whatever deals emerged.

Thankfully, most of this nonsense has long since been discarded by the Coalition Government, but the idea that the planning system somehow stands in the way of what could be a terrific relationship between communities and property developers still seems to lurk in the back of Ministers' minds. Years of experience as MPs for prosperous constituencies, mainly in Southern England, have somehow not shaken this belief, and it is only the foghorn voice of Middle England in the pages of the *Daily Telegraph* that has woken them up to the fact that life is maybe not quite as easy as that, and that perhaps the planning system does have a useful purpose after all.

So where does this leave the draft NPPF? The main issue that clearly needs to be resolved is the conflict between the plan-led system and the poorly worded 'presumption in favour of sustainable development'. As recently as June 2011, the Government's Natural Environment White Paper stated that the forthcoming planning reforms would 'guide development to the best locations';¹ quite so, although the draft NPPF talks more opaquely about 'guiding development to sustainable solutions'.²

If one adopts the White Paper wording, it follows that properly conceived plans would prevent development happening in the 'worst locations', and that these locations would be defined as much by their poor access to public transport or local services as any formal landscape designation. In such locations the plan would indicate a strong presumption *against* development, so to imply in the draft NPPF that an over-arching presumption *in favour* could be argued is perverse and misleading. What is needed in the final draft is an unambiguous re-statement of the principle that an up-to-date plan should always guide decisions on individual applications, rather than stating that individual proposals should be approved 'wherever possible'.³

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But what if the plan is not up to date? If the NPPF were to contain a much clearer and balanced definition of what constitutes sustainable development, it would be quite sensible to use the 'presumption in favour' as a means of ensuring that local planning authorities get on with the job of adopting their plans. A reasonable transition period

to enable new-style plans to be prepared should be allowed (I would suggest a period of one to three years, depending on the local circumstances); but if a more balanced definition of sustainable development can be agreed now, there is no reason why the presumption in favour should not still be a guiding principle in the interim.

However, the NPPF and the Localism Bill still put unnecessary obstacles in the way of local authorities preparing sensible plans, and these will also need to be addressed by the Government. The most obvious one is the abolition of any formal system of strategic planning.

In his rush to abolish Regional Spatial Strategies, Communities and Local Government Secretary Eric Pickles has ensured that England (outside London) will be the only country in Europe to have no formal system of strategic planning to mediate between national and local interests. Even London, with its enviable London Plan, now has no formal process for engaging with the wider South East other than through bilateral relationships with individual authorities governed by the ill-defined 'Duty to Co-operate'. But, particularly in areas of high market demand (formerly known as Growth Areas), the absence of a formal sub-regional planning process will enormously hamper co-ordinated plan-making, just at the time when the poor health of the national economy requires the most efficient use of limited public and private sector resources to stimulate growth.

The draft NPPF tries vainly to address this deficiency with references to the possible need for 'plans or policies prepared as part of a joint committee',⁴ or 'joint planning policies on strategic matters'.⁵ It is true that in some areas joint Core Strategies are already being produced, and this would go some way to filling the strategic gap if the new system will accommodate them, but what about those areas where joint Core Strategies are not being prepared?

If a joint strategy is to have any teeth on important cross-boundary issues such as the location of strategic sites or major infrastructure projects, or on retail hierarchies that will prevent beggar-my-neighbour retail proposals, it will need to be the subject of full consultation, a Strategic Environmental Assessment and an independent Examination in Public. This may not be on the Government's agenda at the moment, but relying on the 'Duty to Co-operate' may not be enough to provide the strategic planning framework that many areas need, particularly those under development pressure.

Whereas local authorities in areas where there is a history of good co-operation will no doubt continue to find a consensual way forward on these wider issues, whatever the planning system, the test of the 'Duty to Co-operate' will be in areas

where there is no such history. There may yet be a need for some strong guidance from the Government on where Joint Planning Committees should be established in the national interest, possibly using the sub-regional geography established by the Local Enterprise Partnerships as the starting point. Ideally, the Localism Bill should be amended to allow these joint strategies to be formally tested and adopted.

A further challenge for local authorities is the nature of the new-style Local Plans themselves. The draft NPPF requires them to be unified Local Plans, and states that additional development plan documents should only be used 'where clearly justified'.⁶ This may be seen as a return to pre-2004 Local Plans, but the job of preparing (and keeping

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up to date) a single Local Plan along with a Community Infrastructure Charging Schedule without the guiding framework of a Structure Plan will severely challenge the limited resources to be found in most local authorities, not to say in the Planning Inspectorate.

There must also be concerns about the level of detail that the new style Local Plans will be expected to cover. The draft NPPF states that, among other objectives, the Local Plan should 'allocate sites to promote development and flexible use of land, providing detail on form, scale, access and quantum of development where appropriate'⁷ – a level of detail more appropriately handled through Area Action Plans or Supplementary Planning Documents (SPDs). However, the draft NPPF cautions against the use of additional development plan documents and SPDs, and moreover gives a stern warning that SPDs must not be used to add to the 'financial burden' on development. As these documents are normally used to provide detail on the quality standards that need to be met on development sites (which would inevitably carry financial consequences), this is an unhelpful restriction.

So where does this leave Neighbourhood Plans? Ministers still talk enthusiastically about neighbourhood planning handing 'power back to

communities to decide the vision for their area as they see fit',⁸ and there is no doubt that the powers given to neighbourhoods in the Localism Bill will stimulate some positive local initiatives. In particular, neighbourhood planning could help to fill the gap left by Area Action Plans and SPDs in places where significant change is anticipated in the adopted Local Plan, although mechanisms would still need to be found to mediate between strategic and local priorities. However, the largest impediment to a flourishing neighbourhood planning scene may yet be the limited resources available to make it work effectively.

The next three months will be critical for the future of planning in England, and at a time of economic uncertainty and heightened concern about climate change and growing social inequality, now is not the time to jettison the clarity and certainty provided by the plan-led system.

It is quite right for the Government, through the NPPF, to require local authorities to get on with the job of adopting plans and then keeping them up to date. But the final version of the NPPF needs to unambiguously restate that once a plan is in place it must be the principal driver of development, and not be compromised by a parallel presumption in favour of an unbalanced and poorly worded definition of sustainable development.

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Notes

- 1 *The Natural Choice: Securing the Value of Nature*. White Paper. Cm 8082. HM Government, Jun. 2011. Executive Summary, para. 6. www.official-documents.gov.uk/document/cm80/8082/8082.asp
- 2 *Draft National Planning Policy Framework*. Department for Communities and Local Government, Jul. 2011. para. 11. www.communities.gov.uk/publications/planningandbuilding/draftframework
- 3 *Draft NPPF*, para. 14
- 4 *Draft NPPF*, para. 46
- 5 *Draft NPPF*, para. 47
- 6 *Draft NPPF*, para. 21
- 7 *Draft NPPF*, para. 24, fourth bullet point
- 8 'More communities chosen to try out new planning powers'. Press Notice. Department for Communities and Local Government, 31 Aug. 2011. www.communities.gov.uk/news/newsroom/1975514